

MINUTES OF THE FEBRUARY 06, 2014 MEETING OF THE TOWN BOARD OF THE TOWN OF POUND RIDGE AND PUBLIC HEARINGS HELD AT THE TOWN HOUSE, 179 WESTCHESTER AVENUE, POUND RIDGE, NY, COMMENCING AT 8:00 PM

PRESENT: SUPERVISOR RICHARD LYMAN; COUNCIL MEMBERS: DANIEL PASCHKES, ALISON BOAK, JONATHAN POWERS, BONNIE SCHWARTZ

ALSO PRESENT: TOWN ATTORNEY, WILLIAM P. HARRINGTON, ESQ.  
TOWN CLERK, JOANNE PACE

**CALL TO ORDER:** Supervisor Lyman called the meeting to order at 8:00 p.m.

**CALL FOR EXECUTIVE SESSION:**

**Board Action:** Motion by Councilman Powers, seconded by Councilwoman Boak, all voting aye to hold an Executive Session meeting on Tuesday, February 11, 2014 at 6:00 p.m. for a personnel matter and on Thursday, February 13, 2014 at 7:00 p.m. for a personnel matter.

**ANNOUNCEMENTS:**

Supervisor Lyman announced that the Town of Pound Ridge has officially been awarded the TEP funding in the amount of \$1.48 million to improve bicycle and pedestrian safety at Scotts Corners. There will be a special work session on Monday, February 10, 2014 at 9:30 a.m. to discuss the process going forward.

**MINUTES: Acknowledge/correct/accept minutes of Town Board Meetings on January 9, 2014.**

**RESOLUTION #: 37-14**

**Board Action:** Motion by Councilwoman Boak, seconded by Councilwoman Schwartz, all voting aye on the following:

RESOLVED, that the Town Board hereby acknowledge/correct/accept minutes of Town Board Meetings on January 9, 2014

**PUBLIC HEARING: To consider adopting an amendment to Local Law “Slopes Protection” Chapter 89 of the code of the Town of Pound Ridge**

**Board Action:** Motion by Councilman Powers, seconded by Councilwoman Schwartz, all voting aye to open the Public Hearing to consider adopting a Local Law to consider adopting an amendment to Local Law “Slopes Protection” Chapter 89 of the code of the Town of Pound Ridge.

MINUTES OF THE FEBRUARY 06, 2014 MEETING OF THE TOWN BOARD OF THE TOWN OF POUND RIDGE AND PUBLIC HEARINGS HELD AT THE TOWN HOUSE, 179 WESTCHESTER AVENUE, POUND RIDGE, NY, COMMENCING AT 8:00 PM

David Stolman, Planning Consultant with F.P. Clark Associates, Inc., went over the final draft amendments to the Slopes Protection ordinance. The present ordinance has prohibition against any disturbance of a steep slope above 35%. The amendment to this ordinance will give the Planning Board the authority to waive the prohibition to create or disturb any steep slope above 35%, but only with respect to ingress and egress over the property's road frontage. The Planning Board agreed to revise §89-7 G. Burden of Proof (3) © Paragraph to change the word "minimized" to *mitigated*. They also recommended the addition of the clause "*in consultation with the Conservation Board*".

Westchester County Planning Board submitted a letter to Supervisor Lyman on January 30, 2014 acknowledging their receipt of the proposed amendments to the Local Law Slopes Protection and found the proposed amendments generally consistent with the Westchester County Planning Board Steep Slope Policies, which call for the allowance of flexibility in steep slope ordinances.

Santo Borsellino, Rolling Meadows Lane, spoke about his concerns about allowing continuous access to the steep slope area; traversing the slope further than they would otherwise need to. This would be in a larger scale development with multiple lots and multiple roads. He would like the applicant to exit that slope in the shortest amount of time possible.

Councilman Powers said that whatever has to be mitigated, the Planning Board would minimize the disturbance. The Local Law currently says that "the applicant shall have the additional burden of demonstrating that the applicant's circumstances are compelling and exceptional, including, at a minimum, an analysis of the of the relative environmental impact of ingress and egress alternatives."

Councilman Paschkes said that the incident that Mr. Borsellino refers to may have been the impetus to having the Town Board revisit this decree, but he doesn't think it is the only scenario that is spoken to by the change. You can have other environmental constraints on the property, not just access, where you may want to allow the use of a different part of the property that has a slope. It may have a wetland where you have a sensitive habitat or some other environmental concern. To say you can do it for access but you have to get off it as quickly as possible may not allow for the flexibility to address the nature of the property in its totality. David Stolman said that he doesn't believe the Planning Board has the authority to go beyond what the ordinance says and that is waive the prohibition to create or disturb any steep slope above 35%, but only with respect to ingress and egress over the property's road frontage. Once you are in, you must get out as soon as possible.

Counsel Harrington stated that if you have a site that was burdened with wetlands and the only logical place to get access for traffic safety purposes was to cut through a 35% or more steep slope, the applicant can do this under this ordinance but then they would have to figure out how to traverse whatever wetlands issues were there. You can go through

MINUTES OF THE FEBRUARY 06, 2014 MEETING OF THE TOWN BOARD OF THE TOWN OF POUND RIDGE AND PUBLIC HEARINGS HELD AT THE TOWN HOUSE, 179 WESTCHESTER AVENUE, POUND RIDGE, NY, COMMENCING AT 8:00 PM

wetlands or a wetland buffer, but would have to engineer it properly and creatively. Sometimes, the applicant will have to reassess the access point and see if it is worth it or move it somewhere else.

Supervisor Lyman said that he is content to rely on the discretion of the Planning Board in these matters. This really is a balancing test of which is the least worse solution of getting the applicant to go without depriving him of the use of his property.

Peter Avellino, Pine Drive, wanted to know if the objective is to allow the applicant to have full access to his property or is it just to give them access to the property. Supervisor Lyman said that he trusts the Planning Board to come up with the appropriate solution that is going to be best for the environment in order to allow someone the use of their property. It doesn't mean total use of their property or anything beyond access to their property.

**Board Action:** Motion by Councilman Powers, seconded by Councilman Paschkes, all voting aye to close the Public Hearing to consider adopting an amendment to Local Law "Slopes Protection" Chapter 89 of the code of the Town of Pound Ridge.

**RESOLUTION #: 38-14**

**Board Action:** Motion by Councilman Paschkes, seconded by Councilwoman Boak, the Board polled and motion passing 5-0, Councilwoman Schwartz, aye, Councilman Powers, aye, Councilwoman Boak, aye, Councilman Paschkes, aye and Supervisor Lyman, aye, on the following:

RESOLVED, that the Town Board hereby adopts the Local Law to consider adopting an amendment to Local Law "Slopes Protection" Chapter 89 of the code of the Town of Pound Ridge with the modification of replacing the word "minimized" with "mitigated" in Section 89-7 G. (3) © and the inclusion of "in consultation with the Conservation Board."

David Stolman will also delete former Councilman Peter Falco from the resolution.

**PUBLIC HEARING:** To consider adopting a Local Law pertaining to the Inclusion of Multi-Family Housing in the Zoning Chapter of the Town Code and an amendment to the Affordable Fair Housing Provisions of the Zoning Chapter.

**Board Action:** Motion by Councilwoman Schwartz, seconded by Councilwoman Boak, all voting aye to open the Public Hearing to consider adopting a Local Law pertaining to the Inclusion of Multi-Family Housing in the Zoning Chapter of the Town Code and an amendment to the Affordable Fair Housing Provisions of the Zoning Chapter.

MINUTES OF THE FEBRUARY 06, 2014 MEETING OF THE TOWN BOARD OF THE TOWN OF POUND RIDGE AND PUBLIC HEARINGS HELD AT THE TOWN HOUSE, 179 WESTCHESTER AVENUE, POUND RIDGE, NY, COMMENCING AT 8:00 PM

David Stolman said that after the Town Board adopted amendments to the housing regulation of the zoning law, it embarked upon changing the senior citizen special permit to a multi-family special permit. The Housing Board reviewed the draft of the proposed Multi-Family Zoning Law and had no suggestions for changes. Westchester County Planning Board also sent a letter to Supervisor Lyman dated January 30, 2014 supporting the proposed amendments changing existing regulations governing special permit standards for "senior citizen housing" by making them applicable to multi-family housing and deleting all references to senior housing. There was one proposed language change encouraging the Town to consider revising the limits placed on building size. The County Planning Board felt that there should be some flexibility in there to deal with differences in topography where sometimes a larger building would be better than a smaller one.

Elyse Arnow, Fancher Road, requested that the letter from Westchester County be read aloud. David Stolman read a couple of key paragraphs. The letter was circulated in the audience. David Stolman mentioned that the Pound Ridge Planning Board had a couple of minor tweaks. In §113-57 (D), the first paragraph, instead of "lot area", the Planning Board recommends using "gross lot area" and David Stolman feels that is appropriate. In §113-57 (G) (1), use "gross lot area" and one additional sentence in paragraph (P), where it says "Multi-family housing" projects may contain or be comprised of "two-family dwellings", *and the requirements pertaining to "multi-family housing" units and development herein shall apply thereto.* David Stolman feels this is appropriate to add.

Councilman Paschkes feels the County's proposal is somewhat problematic. It seems to him that the problematic language is their suggestion that the Town allow the buildings to contain more than four (4) dwelling units. If it was to allow for some modification to the size, that's one thing, but to allow modification to the number of dwelling units changes the whole scheme of things. If we don't have a fixed number in the number of attached units, the sky is the limit.

Santo Borsellino mentioned that the Town Board has to be careful with the number of dwelling units because technically, more than four units can change character and become "commercial" vs. four and under dwelling units as "residential". Peter Avellino asked if the maximum square footage has changed and David Stolman said no. The average unit cannot exceed 2,500 square feet and the maximum per unit cannot exceed 3,000 square feet. That has not changed.

The Planning Board accepted the proposed resolution that was drafted and that included the changes as proposed by Westchester County Planning Board, so we need to amend our proposed resolution.

Elyse Arnow asked for clarification regarding the terms of dimensions and not the number of units. The Town Board is reading the proposed language as terms of dimensions.

MINUTES OF THE FEBRUARY 06, 2014 MEETING OF THE TOWN BOARD OF THE TOWN OF POUND RIDGE AND PUBLIC HEARINGS HELD AT THE TOWN HOUSE, 179 WESTCHESTER AVENUE, POUND RIDGE, NY, COMMENCING AT 8:00 PM

**Board Action:** Motion by Councilman Paschkes, seconded by Councilman Powers, all voting aye to close the Public Hearing to consider adopting a Local Law pertaining to the Inclusion of Multi-Family Housing in the Zoning Chapter of the Town Code and an amendment to the Affordable Fair Housing Provisions of the Zoning Chapter.

There was some discussion regarding adopting the resolution without the changes suggested by Westchester County Planning Board. Councilman Paschkes brought up the fact that the County says that we should “modify these requirements based on a demonstration by the applicant that certain conditions will be met.” They do not specify what conditions should be met in order to make the changes.

Counsel Harrington explained that inherent in our review of a special use permit would cover all concerns mentioned. Rather than going down a path of uncertainties, he suggests that the Town Board adopt the ordinance and when the Town Board has an applicant come in for a review and there is a sensitive environmental concern that requires the building being a little bit bigger, then it will be considered. It allows the Town Board to consider all concerns as they get applications.

**RESOLUTION #: 39-14**

**Board Action:** Motion by Councilman Paschkes, seconded by Councilwoman Boak, the Board polled and motion passing 5-0, Councilwoman Schwartz, aye, Councilman Powers, aye, Councilwoman Boak, aye, Councilman Paschkes, aye and Supervisor Lyman, aye, on the following:

RESOLVED, that the Town Board hereby adopts the draft Local Law pertaining to the Inclusion of Multi-Family Housing in the Zoning Chapter of the Town Code and an amendment to the Affordable Fair Housing Provisions of the Zoning Chapter incorporating Pound Ridge Planning Board’s recommendations and respectfully declining to make the changes as proposed in the Westchester County Planning Board’s letter of January 30, 2014 and in connection with that, striking from our proposed resolution the paragraph on page one that would have incorporated the changes proposed by Westchester County Planning Board in their letter.

The amended Resolution is as follows:

**RESOLUTION ADOPTING LOCAL LAW 1 OF THE YEAR 2014 PERTAINING TO THE AMENDMENT OF CHAPTER 89, SLOPE PROTECTION, OF THE POUND RIDGE TOWN CODE**

MINUTES OF THE FEBRUARY 06, 2014 MEETING OF THE TOWN BOARD OF THE TOWN OF POUND RIDGE AND PUBLIC HEARINGS HELD AT THE TOWN HOUSE, 179 WESTCHESTER AVENUE, POUND RIDGE, NY, COMMENCING AT 8:00 PM

WHEREAS, the Town Board is entertaining the adoption of a Local Law pertaining to the amendment of Chapter 89, Slopes Protection, of the Pound Ridge Town Code (the "Proposed Action"); and

WHEREAS, in accordance with the requirements of the New York State Environmental Quality Review Act (SEQRA), the Town Board is the only Involved Agency with respect to the Proposed Action and is therefore the Lead Agency; and

WHEREAS, the Town Board has had an Environmental Assessment Form prepared in connection with the Proposed Action; and

WHEREAS, the Town Board referred the proposed Local Law to the Pound Ridge Planning Board and Conservation Board for their advisory opinions; and

WHEREAS, the Planning Board and Conservation Board responded to the above mentioned referrals by means of their memoranda dated January 27 and January 13, 2014, respectively, which memos contained recommended modifications to the Local Law; and

WHEREAS, the Town Board has revised the Local Law as a result of said recommendations; and

WHEREAS, the Town Board referred the proposed Local Law to the Westchester County Planning Board in accordance with Sections 239-l and m of New York State General Municipal Law and Section 277.61 of the Westchester County Administrative Code; and

WHEREAS, the Westchester County Planning Board responded to the above mentioned referral by means of its letter dated January 30, 2014, and the Town Board has given due consideration to said letter; and

WHEREAS, the Town Board held a public hearing on the subject Local Law on February 6, 2014, at which time all interested persons were given an opportunity to be heard.

NOW, THEREFORE, BE IT RESOLVED, AS FOLLOWS:

1. The Town Board hereby adopts and incorporates the recitations and statements set forth above as if fully set forth and resolved herein.

MINUTES OF THE FEBRUARY 06, 2014 MEETING OF THE TOWN BOARD OF THE TOWN OF POUND RIDGE AND PUBLIC HEARINGS HELD AT THE TOWN HOUSE, 179 WESTCHESTER AVENUE, POUND RIDGE, NY, COMMENCING AT 8:00 PM

2. After conducting a “hard look” at the Full Environmental Assessment Form and other materials related to the Proposed Action, the Town Board hereby adopts the attached Negative Declaration for the reasons stated therein, thereby finding that the Proposed Action will have no significant adverse impact upon the environment and thereby ending the SEQRA process.
3. The Town Board hereby adopts Local Law 1 of 2014; except as specifically modified by the amendments contained therein, the Town of Pound Ridge Slopes Protection chapter, as originally adopted and amended from time to time thereafter, is to remain in full force and effect.

The question of adoption of the foregoing resolution was duly put to a vote on roll call, which resulted as follows:

Richard B. Lyman, Supervisor	Voting: <u>aye</u>
Jon Powers, Deputy Supervisor	Voting: <u>aye</u>
Daniel S. Paschkes	Voting: <u>aye</u>
Alison Boak	Voting: <u>aye</u>
Bonnie Schwartz	Voting: <u>aye</u>

The resolution is hereby duly declared adopted.

Dated: February 6, 2014  
Pound Ridge, New York

**NEW BUSINESS:**

- **Recycling – requests approval to sign an annual contract for computer recycling**

Our current e-waste contract with E-lots has changed. The Town was not charged for disposal of e-waste but in 2014, they suddenly announced they lost their grant under which they operated and must charge the Town for removal/disposal. It was going to be \$350.00 for the truck alone and then charge us by the pound for everything they picked up. Bill Schelling, recycling foreman, found a company called RCR&R who will provide the containers at no charge and pick up all our e-waste with no charge with the notable exception of CRT's (old computer screens and old T.V. sets). There is a charge for those of \$.25 per pound. Going forward the Town will have to decide whether the Town will pick up those expenses or do we charge the residents for their drop offs.

**RESOLUTION #: 40-14**

MINUTES OF THE FEBRUARY 06, 2014 MEETING OF THE TOWN BOARD OF  
THE TOWN OF POUND RIDGE AND PUBLIC HEARINGS HELD AT THE TOWN  
HOUSE, 179 WESTCHESTER AVENUE, POUND RIDGE, NY, COMMENCING AT  
8:00 PM

**Board Action:** Motion by Councilman Paschkes, seconded by Councilwoman Boak, all  
voting aye on the following:

RESOLVED, that the Town Board hereby authorizes the Supervisor to sign and  
execute the contract with RCR&R subject to review and approval by Town  
Counsel.

**ADJOURNMENT:** There being no further business to come before the Board,  
Supervisor Lyman adjourned the regular meeting at 9:00 p.m.

Joanne Pace

Dated at Pound Ridge, New York

February 10, 2014